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Creditors' Trust, Summit Securities,
Inc., and the Summit Creditors' Trust

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re. . .

**METROPOLITAN MORTGAGE &
SECURITIES CO., INC.,**

Debtor.

In re. . .

SUMMIT SECURITIES, INC.,

Debtor.

Jointly Administered Under:
No. **04-00757-W11**
Chapter **11**

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW RE:
SECOND SUPPLEMENTAL ORDER
AUTHORIZING SALE OF TRUST
RECEIVABLES FREE AND
CLEAR OF LIENS**

(SELECT ASSETS FUND 1998-1)

THIS MATTER having come on regularly for hearing upon the Motion filed
May 28, 2008 [*Docket No. 13425*] (the "Motion for Second Supplemental Order"),
of the Metropolitan Creditors' Trust ("Metropolitan") and the Summit Creditors'
Trust ("Summit"), by and through their counsel Davidson Backman Medeiros
PLLC, for a Second Supplemental Order Authorizing Sale Of Trust Receivables
Free And Clear Of Liens (the "Second Supplemental Order"), pursuant to the

1 terms and conditions of the Order Authorizing Sale Of Structured Settlements
2 Free And Clear Of Liens, Approving Trust Receivables Purchase Agreement, And
3 Granting Related Relief (the "Sale Order"), entered herein on June 8, 2007 [*Docket*
4 *No. 13061*], authorizing and approving the sale by Metropolitan and Summit (the
5 "Creditors' Trusts" or the "Sellers") of certain portfolios of receivables, payments
6 relating thereto, and related assets from the Select Assets Fund 1998-1 that are
7 held in trust and were distributed or to be distributed to the Creditors' Trusts, as
8 beneficiaries of such trust estate (the "Trust Portfolio Property") to SSC
9 Settlements, LLC (the "Purchaser"), and in connection therewith, the issuance of
10 Supplemental Court Orders (as defined in the Sale Order); and the Court making
11 the findings of fact and conclusions of law set forth hereafter pursuant to
12 Bankruptcy Rule 7052, made applicable to this proceeding pursuant to
13 Bankruptcy Rule 9014, with such findings of fact to be construed as conclusions
14 of law when appropriate, and with such conclusions of law to be construed as
15 findings of fact when appropriate, and all capitalized terms not otherwise defined
16 herein having the meanings given such terms in the Motion for Second
17 Supplemental Order, the Sale Order, or the Trust Receivables Purchase
18 Agreement (the "Purchase Agreement"), as the case may be;

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23 NOW THEREFORE, the Court makes the following Findings of Fact:
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1 1. This Court has jurisdiction over the Motion for Second Supplemental
2 Order under 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding
3 under 28 U.S.C. § 157(b)(2)(A). Venue of these cases and the Motion for Second
4 Supplemental Order in this District is proper under 28 U.S.C. §§ 1408 and 1409.
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6 2. The statutory predicates for the relief sought in the Motion for Second
7 Supplemental Order are sections 105(a), 363, and 1146(c) of the Bankruptcy
8 Code and Bankruptcy Rules 2002 and 6004.
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10 3. On February 4, 2004 (the "Petition Date"), Metropolitan and Summit
11 filed their respective petitions for relief pursuant to chapter 11 of the Bankruptcy
12 Code.
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14 4. An Order Confirming The Third Amended Joint Reorganization Plan
15 Of Metropolitan Mortgage & Securities Co., Inc. And Summit Securities, Inc. was
16 entered on February 13, 2006, confirming the Third Amended Joint Plan of
17 Reorganization (the "Plan"). Pursuant to the Plan, the Metropolitan Creditors'
18 Trust and the Summit Creditors' Trust were created to fulfill the rights and
19 obligations set forth pursuant to the Plan and the Trust Agreements by which
20 they were created, including the duty to use all commercially reasonable efforts to
21 liquidate, sell, or otherwise dispose of, as the case may be, all of the Metropolitan
22 Creditors' Trust Assets and the Summit Creditors' Trust Assets as soon as
23 reasonably possible, subject always to the Plan Administrator's obligation to take
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1 all actions in her capacity as the Plan Administrator in a manner consistent with
2 the best interests of the Beneficiaries, with the powers conferred upon her under
3 the Trust Agreements and the Plan and in accordance with the terms and
4 provisions of the Trust Agreements and the Plan.
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6 5. As evidenced by the Certificate(s) of Service filed with this Court:
7 (i) due, proper, timely, adequate, and sufficient notice of the Motion for Second
8 Supplemental Order and all transactions contemplated thereby, has been
9 provided in accordance with Bankruptcy Code sections 102(1), 105(a), 363, and
10 1112(b) and Bankruptcy Rules 2002 and 6004 and in compliance with the
11 Purchase Agreement; (ii) such notice was good, sufficient, and appropriate under
12 the circumstances; and (iii) no other or further notice of the Motion for Second
13 Supplemental Order, the proposed sale, or the transactions contemplated thereby
14 is or shall be required.
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17 6. A reasonable opportunity to object and be heard with respect to the
18 Motion for Second Supplemental Order and the relief requested therein has been
19 afforded to all persons and entities set forth by the Standing Order, and as
20 required by the Purchase Agreement, including the Payees (as defined below), the
21 Annuity Provider, and the Obligors.
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23 7. The Creditors Trusts' Trust Portfolio Property with the Annuitants
24 (the "Payees"), identified by Annuity Policy Number on Exhibit A attached to the
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1 Motion for Second Supplemental Order, in which Payees agreed to assign and the
2 Creditors' Trusts agreed to purchase certain payments payable under a
3 structured settlement agreement, is hereby assigned to Purchaser.
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5 8. The Creditors' Trusts seek to assign the payment streams (the
6 "Periodic Payments"), identified in Exhibit A to the Motion for Second
7 Supplemental Order that are payable through an annuity owned by Sayra &
8 IOSO, Inc., Government Employees Insurance Company, Metropolitan Insurance
9 and Annuity Company, Metropolitan Life Insurance Company, National Grange
10 Mutual Insurance Company n/k/a NGM Insurance Company, or Metropolitan
11 Property and Liability Insurance Company (the "Obligors") and issued by
12 Metropolitan Life Insurance Company (the "Annuity Provider"), to the Purchaser.
13 The Annuity Provider and Obligors shall remit the Periodic Payments in
14 accordance with the payment streams set forth in said Exhibit A to Stone Street
15 Settlement Funding (the "Transferee") at the following address: 39121 Treasury
16 Center, Chicago, Illinois 60694-9100, or such other address as the Transferee, or
17 its successor(s), may designate.
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21 9. The Periodic Payments shall be made to the Transferee even in the
22 event of death of a Payee. As of the date of entry of the Second Supplemental
23 Order, Payees shall no longer have the power or authority to request changes to a
24 Payee's address or beneficiary designation relating to the Periodic Payments. The
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1 Annuity Provider and Obligors shall remit the Periodic Payments to the
2 Transferee.

3 10. By making and delivering the Periodic Payments to the Transferee as
4 set forth herein, the Annuity Provider and Obligors shall have no liability to the
5 Payees for making the payments to the Transferee.
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7 11. The Transferee shall be liable to the Annuity Provider and Obligors
8 for any liabilities, taxes, or costs of any kind, including reasonable costs and
9 attorneys' fees arising from compliance by the Annuity Provider and Obligors with
10 the Second Supplemental Order and/or arising as a consequence of the
11 Transferee's failure to comply with applicable law.
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13 12. The Second Supplemental Order shall in no way modify or negate the
14 ownership or control of the underlying contract by the Obligors and shall be
15 entered without prejudice to the rights of the Annuity Provider and the lack of
16 opposition by the Annuity Provider and Obligors to this transfer, and their
17 compliance with the Second Supplemental Order, and the Court's entry of the
18 Second Supplemental Order, shall not constitute evidence in this or any other
19 matter regarding: (i) the assignability of payments under a structured settlement
20 agreement or annuity contract or related contracts or whether such payments
21 can be assigned; (ii) the enforceability of provisions that restrict and/or preclude
22 assignment of payments under a structured settlement agreement or annuity
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1 contract or related contracts or orders; (iii) the validity of other transactions
2 entered into by Transferee; or (iv) whether the Annuity Provider and the Obligors
3 have waived any rights in connection with any other litigation or claims or rights
4 other than the rights to the Periodic Payments as described above.
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6 13. The Second Supplemental Order shall be binding upon and shall
7 inure to the benefit of any and all successors and assigns of the (a) Creditors'
8 Trusts, (b) the Purchaser, (c) the Payees, (d) the Transferee, and (e) other
9 interested parties.
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11 14. The Court shall retain jurisdiction to interpret and enforce the
12 provisions of the Second Supplemental Order in all respects, including, without
13 limitation, retaining exclusive jurisdiction to determine or resolve any and all
14 objections to or disputes among the parties with respect to the matters set forth
15 therein, provided however that, in the event the Court abstains from exercising,
16 or declines to exercise, jurisdiction with respect to any matter referred to in this
17 paragraph or is without jurisdiction, such abstention, refusal, or lack of
18 jurisdiction shall have no effect upon and shall not control, prohibit, or limit the
19 exercise of jurisdiction of any other court having competent jurisdiction with
20 respect to any such matter.
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23 15. Notwithstanding the provisions of Bankruptcy Rules 6004(g) and
24 6006(d), the Second Supplemental Order shall not be stayed for ten (10) days
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1 after entry thereof, but shall be effective and enforceable immediately upon
2 issuance thereof. Time is of the essence in closing the transactions referenced
3 herein, and the Creditors' Trusts and the Purchaser intend to close such
4 transactions as soon as practicable. Therefore, any party objecting to entry of the
5 Second Supplemental Order must exercise due diligence in filing an appeal and
6 pursuing a stay, or risk its appeal being foreclosed as moot.
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8 16. Findings of Fact and Conclusions of Law Re: Second Supplemental
9 Order Authorizing Sale of Trust Receivables should be entered as set forth herein.
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11 17. The Second Supplemental Order should be entered in the form
12 attached to the Motion for Second Supplemental Order as Exhibit C.
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14 WHEREFORE, having entered the foregoing Findings of Fact, the Court
15 hereby makes the Conclusions of Law set forth hereafter. To the extent any of the
16 following Conclusions of Law constitute Findings of Fact, they are adopted as
17 such.
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19 1. All requirements of section 363(b) and (f) of the Bankruptcy Code and
20 any other applicable law relating to the sale of Portfolio Property have been
21 satisfied. Those parties asserting liens on, or other interests in, Portfolio Property
22 who did not object to the Motion for Second Supplemental Order, or who have
23 withdrawn their objections, are deemed to have consented pursuant to section
24 363(f)(2) of the Bankruptcy Code.
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1 2. This Court has jurisdiction over the Motion for Second Supplemental
2 Order under 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding
3 under 28 U.S.C. § 157(b)(2)(A). Venue of these cases and the Motion for Second
4 Supplemental Order in this District is proper under 28 U.S.C. §§ 1408 and 1409.
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6 3. The statutory predicates for the relief sought in the Motion for Second
7 Supplemental Order are sections 105(a), 363, and 1146(c) of the Bankruptcy
8 Code and Bankruptcy Rules 2002 and 6004.
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10 4. As evidenced by the Certificate(s) of Service filed with this Court:
11 (i) due, proper, timely, adequate, and sufficient notice of the Motion for Second
12 Supplemental Order and all transactions contemplated thereby, has been
13 provided in accordance with Bankruptcy Code sections 102(1), 105(a), 363, and
14 1112(b) and Bankruptcy Rules 2002 and 6004 and in compliance with the
15 Purchase Agreement; (ii) such notice was good, sufficient, and appropriate under
16 the circumstances; and (iii) no other or further notice of the Motion for Second
17 Supplemental Order, the proposed sale, or the transactions contemplated thereby
18 is or shall be required.
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20 5. A reasonable opportunity to object and be heard with respect to the
21 Motion for Second Supplemental Order and the relief requested therein has been
22 afforded to all persons and entities set forth by the Standing Order, and as
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1 required by the Purchase Agreement, including the Payees, the Annuity Provider,
2 and the Obligors.

3 6. The Creditors Trusts' Trust Portfolio Property with the Payees, in
4 which Payees agreed to assign and the Creditors' Trusts agreed to purchase
5 certain payments payable under a structured settlement agreement, is hereby
6 assigned to Purchaser.
7

8 7. The Creditors' Trusts hereby assign the Periodic Payments to the
9 Purchaser. The Annuity Provider and Obligors will remit the Periodic Payments
10 in accordance with the payment streams set forth in said Exhibit A to the Motion
11 for Second Supplemental Order to the Transferee at the following address: c/o
12 Stone Street Settlement Funding, 39121 Treasury Center, Chicago, Illinois,
13 60694-9100, or such other address as the Transferee, or its successor(s), may
14 designate.
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16

17 8. The Periodic Payments shall be made to the Transferee even in the
18 event of death of a Payee. As of the date of entry of the Second Supplemental
19 Order, Payees no longer have the power or authority to request changes to a
20 Payee's address or beneficiary designation relating to the Periodic Payments. The
21 Annuity Provider and Obligors shall remit the Periodic Payments to the
22 Transferee.
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1 9. By making and delivering the Periodic Payments to the Transferee as
2 set forth herein, the Annuity Provider and Obligors have no liability to the Payees
3 for making the payments to the Transferee.
4

5 10. The Transferee is hereby liable to the Annuity Provider and Obligors
6 for any liabilities, taxes, or costs of any kind, including reasonable costs and
7 attorneys' fees arising from compliance by the Annuity Provider and Obligors with
8 the Second Supplemental Order and/or arising as a consequence of the
9 Transferee's failure to comply with applicable law.
10

11 11. The Second Supplemental Order in no way modifies or negates the
12 ownership or control of the underlying contract by the Obligors and is entered
13 without prejudice to the rights of the Annuity Provider and the lack of opposition
14 by the Annuity Provider and Obligors to this transfer, and their compliance with
15 the Second Supplemental Order, and the Court's entry of the Second
16 Supplemental Order, shall not constitute evidence in this or any other matter
17 regarding: (i) the assignability of payments under a structured settlement
18 agreement or annuity contract or related contracts or whether such payments
19 can be assigned; (ii) the enforceability of provisions that restrict and/or preclude
20 assignment of payments under a structured settlement agreement or annuity
21 contract or related contracts or orders; (iii) the validity of other transactions
22 entered into by the Transferee; or (iv) whether the Annuity Provider and the
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1 Obligor have waived any rights in connection with any other litigation or claims
2 or rights other than the rights to the Periodic Payments as described above.

3 12. The Second Supplemental Order is binding upon and inures to the
4 benefit of any and all successors and assigns of the (a) Creditors' Trusts, (b) the
5 Purchaser, (c) the Payees, (d) the Transferee, and (e) other interested parties.
6

7 13. The Court hereby retains jurisdiction to interpret and enforce the
8 provisions of the Second Supplemental Order in all respects, including, without
9 limitation, retaining exclusive jurisdiction to determine or resolve any and all
10 objections to or disputes among the parties with respect to the matters set forth
11 therein, provided however that, in the event the Court abstains from exercising,
12 or declines to exercise, jurisdiction with respect to any matter referred to in this
13 paragraph or is without jurisdiction, such abstention, refusal, or lack of
14 jurisdiction shall have no effect upon and shall not control, prohibit, or limit the
15 exercise of jurisdiction of any other court having competent jurisdiction with
16 respect to any such matter.
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19 14. Notwithstanding the provisions of Bankruptcy Rules 6004(g) and
20 6006(d), the Second Supplemental Order shall not be stayed for ten (10) days
21 after entry thereof, but is effective and enforceable immediately upon issuance
22 thereof. Time is of the essence in closing the transactions referenced herein, and
23 the Creditors' Trusts and the Purchaser intend to close such transactions as soon
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1 as practicable. Therefore, any party objecting to entry of the Second
2 Supplemental Order must exercise due diligence in filing an appeal and pursuing
3 a stay, or risk its appeal being foreclosed as moot.
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5 15. The Second Supplemental Order shall be entered in the form
6 attached to the Motion for Second Supplemental Order as Exhibit C.
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8 Presented by:

9 DAVIDSON BACKMAN MEDEIROS PLLC
10

11 /s/ Barry W. Davidson

12 Barry W. Davidson, WSBA No. 07908
13 Attorney for Metropolitan Mortgage &
14 Securities Co., Inc., the Metropolitan
15 Creditors' Trust, Summit Securities, Inc.,
16 and the Summit Creditors' Trust
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Patricia C. Williams
Patricia C. Williams
Bankruptcy Judge

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